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UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

V.

EZRA SUTTON,
NORMA SUTTON,

Defendants.

[illegible]

Case No.

COMPLAINT

Plaintiff, the United States of America, at the request of the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and at the direction of the Attorney General, brings this civil action to collect the federal income tax assessments made against Ezra Sutton and Norma Sutton and the civil penalty assessments made against Ezra Sutton.

JURISDICTION AND VENUE

1. Jurisdiction for this action is conferred on the Court by 28 U.S.C. §§ 1340 and 1345 and by 26 U.S.C. § 7402.
2. Venue is proper in this district by virtue of 28 U.S.C. § 1396.

PARTIES

3. Plaintiff is the United States of America.
4. Defendant Ezra Sutton is a resident of Oakhurst, New Jersey, located in Monmouth County, which is within the jurisdiction of this Court.
5. Defendant Norma Sutton is a resident of Oakhurst, New Jersey, located in Monmouth County, which is within the jurisdiction of this Court.

COUNT I - REDUCE FEDERAL INCOME TAX ASSESSMENTS TO JUDGMENT

6. The United States incorporates by reference the allegations set forth in paragraphs 1 through 5 above.
7. A delegate of the Secretary of Treasury of the United States made various assessments for unpaid federal income taxes against Defendants Ezra Sutton and Norma Sutton on the dates, and the amounts, and for the tax periods set forth below:

Tax Period	Assessment Dates	Tax Assessed	Balance due as of April 15, 2019
2008	11/23/2009	\$ 52,273	\$ 11,433
2009	11/15/2010	\$ 58,817	\$ 44,747
2010	12/05/2011	\$ 52,492	\$ 16,595
2011	11/26/2012	\$ 61,562	\$ 47,790
2012	12/09/2013 07/13/2015	\$ 48,997 \$ 5,565	\$ 27,913

Tax Period	Assessment Dates	Tax Assessed	Balance due as of April 15, 2019
2013	11/17/2014 05/23/2016	\$ 14,014 \$ 3,016	\$ 19,100
2014	12/07/2015	\$ 32,494	\$ 19,624
2015	11/07/2016	\$ 27,806	\$ 17,445
TOTAL			\$204,647

8. Proper and timely notice and demand for payment of the tax assessments described above were given to Defendants Ezra Sutton and Norma Sutton.
9. Statutory additions for interest and penalties have accrued and will continue to accrue on the unpaid balance of the tax assessments described in paragraph 7, above.
10. Defendants Ezra Sutton and Norma Sutton have failed to pay the United States the full amount owed as a result of the tax assessments described in paragraph 7, above.
11. By reason of the foregoing, Defendants Ezra Sutton and Norma Sutton are indebted to the United States for federal income tax and statutory additions for interest and penalties in the amount of \$204,647 as of April 15, 2019, plus interest, penalties, and costs that will continue to accrue thereafter according to law.

COUNT II - REDUCE CIVIL PENALTY ASSESSMENTS TO JUDGMENT

12. The United States incorporates by reference the allegations set forth in paragraphs 1 through 11 above.
13. During the tax periods ending December 31, 2007, March 31, 2008, June 30, 2008, September 30, 2008, March 31, 2009, June 30, 2009, September 30, 2009, December 31, 2009, March 31, 2010, September 30, 2010, December 31, 2010, December 31,

2011, March 31, 2012, June 30, 2012, September 30, 2012, December 31, 2012, March 31, 2013, March 31, 2014, June 30, 2014, September 30, 2014, and December 31, 2014 (the “tax periods at issue”), the Federal withholding and Federal Insurance Contribution Act (“FICA”) taxes which were required to be withheld from the wages of the employees of Ezra Sutton, P.A. (“Sutton, P.A.”) were not collected, truthfully accounted for, or paid over to the United States.

14. Defendant Ezra Sutton is the sole owner and president of the law offices of Sutton, P.A.
15. Defendant Ezra Sutton was a person who was responsible for collecting, truthfully accounting for, and paying over to the United States the Federal withholding and FICA taxes that were withheld from the wages of the employees of Sutton, P.A. during the tax periods at issue.
16. During the tax periods at issue, Defendant Ezra Sutton knew or should have known that Sutton, P.A. was not collecting, accounting for, or paying over the Federal withholding and FICA taxes that were withheld from the wages of the employees of Sutton, P.A.
17. Defendant Ezra Sutton’s willful failure to collect, truthfully account for, and pay over the Federal withholding and FICA taxes that were withheld from the wages of the employees of Sutton, P.A. during the tax periods at issue rendered him liable for a penalty equal to the total amount of the taxes not collected, accounted for and paid over to the United States.

18. A delegate of the Secretary of the Treasury assessed against Defendant Ezra Sutton penalties under 26 U.S.C. § 6672, representing the amounts that were equal to the federal employment taxes that were required to be withheld from the wages of the employees of Sutton, P.A. and that were not collected, accounted for, and paid over when due, for the following tax periods in the amounts set forth below:

Tax Period Ending	Assessment Dates	Assessed Amount	Balance due as of April 15, 2019 ¹
12/31/2007	03/09/2009	\$ 39,643	\$ 38,037
03/31/2008	03/09/2009	\$ 37,751	\$ 54,543
06/30/2008	03/09/2009	\$ 17,820	\$ 25,746
09/30/2008	10/11/2010	\$ 16,786	\$ 22,800
03/31/2009	10/11/2010	\$ 38,662	\$ 52,512
06/30/2009	10/11/2010	\$ 41,682	\$ 56,614
09/30/2009	10/11/2010	\$ 41,532	\$ 56,410
12/31/2009	10/11/2010	\$ 7,568	\$ 10,280
03/31/2010	03/25/2013	\$ 27,826	\$ 34,985
09/30/2010	03/25/2013	\$ 11,657	\$ 14,604
12/31/2010	03/25/2013	\$ 35,733	\$ 44,767
12/31/2011	03/25/2013	\$ 32,016	\$ 40,110
03/31/2012	03/25/2013	\$ 45,545	\$ 57,059
06/30/2012	09/30/2013	\$ 46,584	\$ 58,361
09/30/2012	09/30/2013	\$ 45,404	\$ 56,249
12/31/2012	09/30/2013	\$ 47,599	\$ 58,714
03/31/2013	04/07/2014	\$ 5,513	\$ 6,816
03/31/2014	02/22/2016	\$ 21,007	\$ 24,171
06/30/2014	02/22/2016	\$ 47,897	\$ 54,982
09/30/2014	02/22/2016	\$ 41,701	\$ 47,870
12/31/2014	02/22/2016	\$ 39,237	\$ 45,041
TOTAL			\$860,671

¹ For the periods ending 12/31/2007, 3/31/2008, and 6/30/2008, the amounts due are calculated as of March 31, 2019.

19. Notices and demands for payments of the assessments referred to in paragraph 18, above, were given to Ezra Sutton.

20. As of April 15, 2019, the amount owed as a result of the assessments in paragraph 18, above totals \$860,671.

21. Statutory additions for interest will accrue thereafter on the unpaid balance of the tax assessments described in paragraph 18, above.

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WHEREFORE, the United States of America respectfully prays for judgment as follows:

(a) As to Count I, that the Court grant judgment in favor of the United States and against Ezra Sutton and Norma Sutton in the amount of \$204,647 as of April 15, 2019, together with all interest and penalties that will continue to accrue thereafter according to law;

(b) As to Count II, that the Court grant judgment in favor of the United States and against Ezra Sutton in the amount of \$860,671 as of April 15, 2019, together with all interest that will continue to accrue thereafter according to law; and

(c) That the Court grant the United States such other relief as it deems just and proper.

Dated: April 5, 2019

RICHARD E. ZUCKERMAN
Principal Deputy Assistant Attorney General

/s/ Beatriz T. Saiz
BEATRIZ T. SAIZ
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____ District of ____

Defendant(s)

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____ , a person of suitable age and discretion who resides there,
 on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*: _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

Plaintiff(s)

v.

Defendant(s)

)
)
)
)
)
)
)
)
)
)
)
)

Civil Action No. _____

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.